

01573.001200.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: L. Salvatore
ALLEN L. PRICE, ET AL.	)	
	:	Group Art Unit: 1771
Application No.: 10/658,550	)	
	:	
Filed: September 10, 2003	)	
	:	
For: ENHANCED ENERGY	)	
ABSORBING MATERIALS	:	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132  
OF DAVID F. ERB, JR.

DAVID F. ERB, JR., declares and says that:

1. I am employed by Tex Tech Industries as Director of R&D and New Product Development.
2. I am an inventor named on the above captioned application.
3. I am familiar with the prosecution history of the above-captioned application. I have carefully reviewed the Examiner's position as set forth in the Office Actions mailed April 20, 2005 and November 2, 2005 and submit this declaration in connection with a Response After Final being submitted concurrently herewith.

4. I understand that claims 1, 2, 4-10, 13 and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,660,913 ("Coppage") in view of Published U.S. Application No. 2003/00222583 A1 ("Thomas").

5. I also understand that Claims 3, 11, 12 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Coppage in view of Thomas, and further in view of U.S. Patent 6,266,819 ("Bachner"); and Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Coppage in view of Thomas, and further in view of U.S. Patent No. 5,440,965 ("Cordova").

6. I have read the Coppage and understand it to disclose a composite protective material having a resin impregnated non-woven outer layer, a woven fabric middle layer and a non woven fabric inner layer.

7. I understand the rejection over Coppage in view of Thomas to assert that it would have been obvious to needlepunch said resin impregnated non-woven layers and woven inner layer(s) to consolidate them together.

8. Based on personal experience, I can state that it would be impossible or at a minimum extremely impractical to perform a needlepunching operation on a resin impregnated nonwoven layer. If such an operation were performed the needles would become fouled, or simply break.

9. I have also read the following passage from Coppage, appearing at column 3, lines 47 to 55 of that reference.

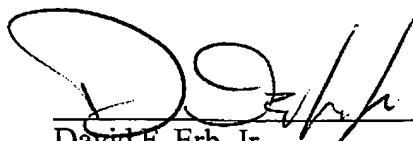
The multiplicity of woven sub-fabric layers which make up the essential middle layer of the composite fabric of this invention are maintained as individual layers and are not quilted or otherwise joined to each other throughout their entire area. However, it is considered

to be within the scope of this invention to stabilize the plurality of woven sub-pplies by tacking them together at various locations. Thus, this invention includes either tacking these sub-pplies together or not as desired.

11. Based upon personal experience, I can further state that, were a non-woven layer to be needlepunched to a stack of woven layers (which is not taught in Coppage), it would not thereafter be possible, or at least it would be extremely impractical, to resin impregnate separately the non-woven layer(s) without also impregnating the woven layers to which the non-woven was joined. It therefore would not be possible, through such method, to obtain a composite having a resin impregnated non-woven ply and individual woven plies, as taught in Coppage. Furthermore, impregnating the woven and nonwoven layers together would render the composite less flexible and less wearable.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Subscribed this 14<sup>th</sup> day of December, 2005.



David F. Erb, Jr.

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